
ADVANCE UNEDITED VERSION

Human Rights Committee

103rd session

Geneva, 17 October – 4 November 2011

Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Islamic Republic of Iran

1. The Committee considered the third periodic of the Islamic Republic of Iran (CCPR/C/IRN/3) at its 2834th, 2835th and 2836th meetings (CCPR/C/SR/2834, CCPR/C/SR/2835 and CCPR/C/SR/2836), held on 17 and 18 October 2011. At its 2857th and 2858th meetings (CCPR/C/SR/2853 and CCPR/C/SR/2858), held on 2 November 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the third periodic report of the Islamic Republic of Iran and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/IRN/Q/3/Add.1) to the list of issues (CCPR/C/IRN/Q/3) which were supplemented by the oral responses provided by the delegation.

3. The Committee notes with regret, however, the 18-year period between the consideration of the second and third periodic reports and hopes that the constructive engagement by the State party with the Committee at its 103rd session will be continued through effective implementation of the current recommendations and timely submission of its fourth periodic report.

B. Positive aspects

4. The Committee welcomes:

(a) the signing of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in September 2010;

(b) the accession to the Convention on the Rights of Persons with Disabilities in October 2009;

(c) the accession to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in September 2007;

(d) the ratification of the Convention on the Rights of the Child in July 1994

C. Principal matters of concern and recommendations

5. The Committee notes with concern that reference is made in the State party's system to certain religious tenets as primary norms.

The State party should ensure that all the obligations of the Covenant are fully respected and that the provisions of its internal norms are not invoked as justification for its failure to fulfil its obligations under the Covenant.

6. The Committee is concerned that the status of international human rights treaties in domestic law is not specified in the legal system, which hinders the full implementation of the rights contained in the Covenant.

The State party should ensure effective implementation and application of Covenant provisions, irrespective of the place of the Covenant in the domestic legal system.

7. The Committee is concerned that the State party has not yet established a consolidated national institution with competence in the field of human rights in accordance with the Paris Principles (General Assembly resolution 48/134) (art. 2).

The State party should consider establishing a national human rights institution with a broad human rights mandate, and provide it with adequate financial and human resources, in line with the Paris Principles (General Assembly resolution 48/134, annex).

8. Despite the development regarding the education of women, the Committee is concerned about the low number of women in decision-making positions in the public sector. It is also concerned that a number of public positions have never been filled by women, including in the Guardian Council or high positions in the Expediency Council and that women are excluded from certain public positions, such as the post of judge (articles 2, 26).

The State party should take steps to increase the number of women in decision-making and judicial bodies at all levels and in all areas. It should also organize special training programmes for women and regular awareness campaigns in this regard.

9. The Committee is concerned about the continuing inequality of women with regard to marriage, family and inheritance matters (articles 2, 26).

The State party should amend the Civil Code and further amend the draft Family Protection Act, to (a) abolish the requirement of a father's or paternal grandfather's approval to legalize a marriage; (b) grant women the equal power to divorce; (c) ensure equal custody rights to the mother, including after a child reaches the age of 7 or if she remarries; (d) accord guardianship over a child to the mother in the case of the father's death; (e) grant women the same inheritance rights as men; (f) remove the legal obligation for a woman to be obedient to her husband; (g) remove the requirement of a husband's approval when a woman intends to leave the country; (h) prohibit polygamy; and (i) remove the power of a man to prohibit his wife from entering employment. The State party should also adopt legislation giving Iranian women the right to transmit their nationality to their children.

10. The Committee is concerned that members of the lesbian, gay, bisexual, and transgender community face harassment, persecution, cruel punishment and even the death penalty. It is also concerned that these persons face discrimination on the basis of their sexual orientation, including with respect to access to employment, housing, education and health care, as well as social exclusion within the community (articles 2, 26).

The State party should repeal or amend all legislation which provides for or could result in the discrimination, prosecution and punishment of people because of their sexual orientation or gender identity. It should ensure that anyone held solely on account of freely and mutually agreed sexual activities or sexual orientation should be released immediately and unconditionally. The State party should also take all necessary legislative, administrative and other measures to eliminate and prohibit discrimination on the basis of sexual orientation, including with respect to access to employment, housing, education and health care, and to ensure that individuals of different sexual orientation or gender identity are protected from violence and social exclusion within the community. The Committee reaffirms that all of these matters fall entirely within the purview of the rights contained in the Covenant, and therefore within the Committee's mandate. It urges the State party to include detailed information on the enjoyment of Covenant rights by members of the lesbian, gay, bisexual, and transgender community in its next periodic report.

11. The Committee is concerned about the absence of specific provisions on domestic violence within the Penal Code, as well as the lack of investigation, prosecution and punishment of perpetrators of domestic violence. It is also concerned that a husband is exempted from punishment for voluntary manslaughter in the event that he murders his wife on suspicion of adultery (articles. 2, 26).

The State party should adopt legislation criminalizing domestic violence and take steps to effectively combat domestic violence. It should ensure that victims have immediate access to means of redress and protection, including through the establishment of a sufficient number of safe houses for victims. The State party should ensure that acts of domestic violence are effectively investigated and that perpetrators are prosecuted and sanctioned. The State party should also ensure that a husband is not exempted from punishment for voluntary manslaughter, in the event that he murders his wife on suspicion of adultery.

12. The Committee continues to be deeply concerned about the extremely high, and increasing, number of death sentences pronounced and carried out in the State party, the wide range and often vague definition of offences for which the death penalty is applied, and the large number of capital crimes and execution methods. The Committee is also concerned about the continued use of public executions, as well as stoning, as a method of execution. It also notes with concern the high incidence of state executions in ethnic minority areas (articles 6, 7).

The State party should consider abolishing the death penalty or at least revise the Penal Code to restrict the imposition of the death penalty to only the "most serious crimes", within the meaning of article 6, paragraph 2, of the Covenant and the Committee's general comment No. 6 (1982) on the right to life. It should ensure that, whenever it is imposed, the requirements of articles 6 and 14 of the Covenant are fully met. It should also ensure that everyone sentenced to death, after exhaustion of all legal avenues of appeal, has an effective opportunity to exercise the right to seek pardon or commutation of sentence from the relevant authorities. The State party should furthermore prohibit the use of public executions, as well as stoning as a method of execution.

13. The Committee is gravely concerned about the continued execution of minors and the imposition of the death penalty for persons who were found to have committed a crime while under 18 years of age, which is prohibited by article 6, paragraph 5, of the Covenant (art.6).

The State party should immediately end the execution of minors, and further amend the draft juvenile crimes investigation act and the Bill of Islamic Criminal Code with the aim of abolishing the death penalty for persons having committed a crime while under the age of 18. The State party should also commute all existing death sentences for offenders on death row who had committed a crime while under the age of 18.

14. The Committee is deeply concerned about reports of the widespread use of torture and cruel, inhuman or degrading treatment in detention facilities, particularly of those accused of national security-related crimes or tried in Revolutionary Courts, some of which have resulted in the death of the detainee. The Committee is also concerned that coerced confessions have been used as the primary evidence to obtain convictions in court (art.7).

The State party should ensure that an inquiry is opened in each case of alleged torture and cruel, inhuman or degrading treatment in detention facilities, and that the perpetrators of such acts are prosecuted and punished appropriately. It should ensure that effective reparation, including adequate compensation, is granted to every victim. The State party should also ensure that no one is coerced into testifying against themselves or others or to confess guilt and that no such “confession” is accepted as evidence in court, except against a person accused of torture or other ill-treatment as evidence that the “confession” or other statement was made.

15. The Committee is concerned that there has not been a full, impartial and independent investigation into allegations of killings, torture and other ill-treatment during and following the 12 June 2009 presidential elections, and that responsible high level officials have not been held accountable (articles 6, 7).

The State party should urgently establish a full, impartial and independent investigation into allegations of killings, torture and other ill-treatment during and following the 12 June 2009 presidential elections, and prosecute those officials found responsible.

16. The Committee is concerned about the continued imposition of corporal punishment by judicial and administrative authorities, in particular amputations and flogging for a range of crimes, including theft, enmity against God (*mohareb*) and certain sexual acts. It is also concerned that corporal punishment of children is lawful in the home, as a sentence of the courts and in alternative care settings (art. 7).

The State party should amend the Penal Code to abolish the imposition of corporal punishment by judicial and administrative authorities. The State party should also explicitly prohibit (all forms of) corporal punishment in childrearing and education, including by repealing the legal defences for its use in article 1179 of the Civil Code, articles 49 and 59 of the Penal Code and article 7 of the Law on the Protection of Children.

17. The Committee is concerned about reports of the use of general and blanket arrest warrants, which do not contain the names of the accused and are not based on a judge’s review of evidence (art. 9).

The State party should ensure that arrest warrants contain the names of the accused and are based on a judge’s review of material evidence. It should also release those persons that have been detained on the basis of general and blanket arrest warrant, in the absence of evidence.

18. The Committee is concerned about the average length of pre-trial detention periods, and the absence in article 33 of the Code of Criminal Procedure of a limit to the amount of time a court can order somebody to remain in detention by law enforcement officers. The Committee is also concerned about reports that individuals are held in incommunicado detention in unacknowledged detention centres (articles 7, 9).

The State party should take all necessary measures to ensure that pre-trial detention is not excessively long in law and in practice, particularly through independent judicial supervision and prompt access to lawyers, in full compliance with article 9 of the Covenant. The State party should also take immediate steps to eliminate incommunicado detention, taking due care to ensure compliance in practice.

19. The Committee is concerned about poor conditions in detention facilities, in particular in Evin Prison, sections 350, 2A, 209 and 240. It is also concerned about the use of solitary confinement, unreasonable limits on family visits, as well as the reported denial of medical treatment to many prisoners in Ward 350/Correctional Facility 3 of Evin Prison (articles 7, 10).

The State party should take immediate steps to establish a system of regular and genuinely independent monitoring of places of detention, and ensure that conditions of detention conform to articles 7 and 10 of the Covenant, as well as to the United Nations Standard Minimum Rules for Treatment of Prisoners. It should also systematically include human rights training as a standard component of curricula, covering the topics of the prohibition of torture, effective interrogation techniques, conditions of detention and the treatment of detainees, in the training of law enforcement, prison and judicial officials.

20. The Committee is concerned about the persistent trafficking in women and children, particularly young girls from rural areas, often facilitated by temporary marriages (“siqeh”)(art.8).

The State party should take steps to combat and prevent the trafficking and sale of persons under 18 years of age. The State party is also requested to provide the Committee in its next periodic report with statistics, on an annual basis, on the number of arrests and convictions under the 2004 law to combat trafficking.

21. The Committee is deeply concerned about the frequent violations of fair trial guarantees provided for under the Covenant, especially in the Revolutionary Courts and the Evin Prison Court. It is also concerned about the invocation by judicial officials of the “mahdoor-ol-dam” (deserving of death) definition in their rulings (articles 14, 6).

The State party should ensure that all legal proceedings are conducted in full accordance with article 14 of the Covenant, including guaranteeing (a) the right to legal assistance of one’s own choosing, including for pre-trial detainees; (b) the right to be informed promptly of the nature and cause of the criminal charges; (c) the intervention and presence of lawyers in all cases, including during the investigation stage; (d) the presumption of innocence; (e) the right to a public hearing; and (f) the right to appeal a ruling. The State party should remove the “mahdoor-ol-dam” (deserving of death) definition, applied to victims, so as to ensure that perpetrators are prosecuted and brought to justice for their crimes. The Committee reminds the State party of its General Comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial.

22. The Committee is concerned that the independence of the judiciary is not fully guaranteed and is compromised by undue pressure from the Executive power, including the Office for Supervision and Evaluation of Judges, as well as senior clerics and high-ranking Government officials ahead of trials. The Committee is also concerned that judges have

used Shari'a law and fatwas to reach a verdict that was in contravention to the rights and principles as laid down in the Covenant (art.14).

The State party should take immediate steps to ensure and protect the full independence and impartiality of the judiciary, and guarantee that its functioning is free from pressure and interference from the executive power and clergy. The State party should also ensure that judges, in interpreting legislation as well as in relying on religious principles, do not reach verdicts that are in contravention to the rights and principles as laid down in the Covenant.

23. The Committee is concerned about discrimination against members of the Christian minority, including arrests based on charges of proselytizing as well as a ban on conducting Christian services in the Farsi language. The Committee also notes with concern that individuals who have converted from Islam have been arrested, and that article 225 of the draft Penal Code aims at making the death penalty mandatory for convicted male apostates (art.18).

The State party should take steps to ensure full respect for the right to freedom of religion or belief, including ensuring that legislation and practices fully conform to article 18 of the Covenant. This also entails that the right of everyone to change his or her religion, if he or she so chooses, is unconditionally and fully guaranteed. The Committee also urges the State party to revoke article 225 of the draft Penal Code. The Committee recalls its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion.

24. The Committee is concerned that members of the Baha'i community continue to be denied their right to freedom to have or adopt a religion or belief. It is also concerned that members of the Baha'i community continue to be subjected to a range of violations of their rights, including arbitrary detention, false imprisonment, confiscation and destruction of property, denial of employment and Government benefits and denial of access to higher education (articles 18, 19, 20, 27).

The State party should ensure full respect for the freedom of everyone, including members of the Baha'i community, to have or to adopt a religion or belief of his or her choice, and the freedom, either individually or in community with others and in public or private, to manifest this religion or belief in worship, observance, practice and teaching. The State party should take immediate steps to ensure that members of the Baha'i community are protected against discrimination in every field, that violations of their rights are immediately investigated, that those found responsible are prosecuted and that they are provided with effective remedies.

25. The Committee is concerned that Sunni Muslims continue to face discrimination in law and in practice, and are prevented from fully exercising their right to freedom to manifest their religion (articles 18, 19).

The State party should guarantee the freedom to manifest a religion or belief and that it can be exercised either individually or in community with others and in public or private. The Committee reminds the State party that this right also entails the building of places of worship.

26. The Committee is concerned that the right to freedom of assembly and association is severely limited, and notes that the holding of public gatherings and marches as well as the establishment of associations are conditional upon compliance with "principles of Islam", which are not defined under national legislation. The Committee is also concerned about continuing reports of harassment or intimidation, prohibition and forceful breaking up of demonstrations, and arrests and arbitrary detentions of human rights defenders. It notes with concern that human rights defenders and defence lawyers often serve prison sentences

based on vaguely formulated crimes such as “mohareb” (enemy of God) or the spreading of propaganda against the establishment. The Committee also notes in particular the high number of women’s rights activists who have been arrested and detained, including volunteers and members of the One Million Signatures Campaign (articles 19, 21, 22).

The State party should ensure that the right to freedom of assembly and association is guaranteed to all individuals without discrimination and release immediately and unconditionally anyone held solely for the peaceful exercise of this right, including students, teachers, human rights defenders (including women’s rights activists), lawyers and trade unionists. The State party should also ensure the prompt, effective and impartial investigation of threats, harassment, and assault on members of these groups, and, when appropriate, prosecute perpetrators of such acts. The State party should also withdraw its draft Bill on the Establishment and Supervision of Non-Governmental Organisations, which would establish a Supreme Committee Supervising Non-Governmental Organisations’ Activities, chaired by the Interior Ministry, including representatives from the Intelligence Ministry, the police, the Basij and the Revolutionary Guards Corps.

27. The Committee is concerned that many newspapers, magazines, as well as the Journalists Association, have been closed by the authorities since 2008, and that many journalists, newspaper editors, film-makers and media workers have been arrested and detained since the 2009 presidential elections. The Committee is also concerned about the monitoring of Internet use and contents, blocking of websites that carry political news and analysis, slowing down internet speeds and jamming of foreign satellite broadcasts, in particular since the 2009 presidential elections (art.19).

The State party should fully guarantee the right to freedom of expression and opinion of independent media, and ensure that journalists can exercise their profession without fear of being brought before courts. The State party should release, rehabilitate and provide effective judicial redress and compensation for journalists that were imprisoned in contravention of articles 9 and 19 of the Covenant. The State party should also ensure that the monitoring of Internet use does not violate the rights to freedom of expression and privacy as defined in the Covenant. The Committee reminds the State party of its General Comment No.34 (2011) on article 19.

28. The Committee is concerned that the minimum age for marriage is too low and that it differentiates on the basis of sex. It is also concerned about the practice of forced, early and temporary marriages of young girls (articles 23, 24).

The State party should eliminate discrimination on the basis of sex in the minimum age of marriage. It should also ensure that the minimum age complies with international standards and should adopt active measures preventing forced, early and temporary marriage of girls.

29. The Committee is concerned about the requirements for registration in election campaigns (in particular article 28, sections 1 and 3, of the Majlis Elections Act), and the right of the Guardian Council to reject parliamentary candidates (as per article 3 of the Amendment to the Majlis Elections Act). The Committee notes with concern that with regard to the 10th presidential election in 2009: (1) only four candidates were approved out of more than 450 prospective candidates; (2) international observers were not allowed entry to monitor the election results; (3) cell phone signals and access to social networking and opposition websites were blocked; (4) political activists, members of the country’s religious and ethnic minority communities, students, trade unionists and women’s rights activists were harassed and arbitrarily detained; (5) election results were approved by Ayatollah Khamenei before certification by the Guardian Council; and (6) two provinces showed a turnout of more than 100 per cent. The Committee also notes with concern the arrest of

dozens of political opposition members in February 2011 as well as the dissolving by court order of two pro-reform political parties (art.25).

The State party should introduce legislative amendments to ensure that articles 3 and 28, sections 1 and 3, of the Majlis Elections Act are in conformity with the rights guaranteed in article 25 of the Covenant. It should also take adequate steps to guarantee that elections are conducted in a free and transparent manner, in full conformity with the Covenant, including through the establishment of an independent electoral monitoring commission.

30. The Committee is concerned about the restrictions and conditions placed on the enjoyment of cultural, linguistic and religious freedoms of minorities in the State party, such as the Kurds, Arabs, Azeris and Baluch, including the use of minority languages in schools, and publication of journals and newspapers in minority languages (art.27).

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection against discrimination and are able to enjoy their own culture and use their own language in media and schools, participate in public affairs and are provided with effective remedies against discrimination.

31. The State party should widely disseminate the Covenant, the text of the third periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the official language of the State party. The Committee also requests the State party, when preparing its fourth periodic report, to broadly consult with civil society and non-governmental organizations.

32. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 9, 12, 13 and 22 above.

33. The Committee requests the State party, in its next periodic report, due to be submitted on 2 November 2014, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.
